

Baker & Hostetler LLP

45 Rockefeller Plaza
New York, New York 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201
David J. Sheehan
Keith R. Murphy
Peter B. Shapiro

*Attorneys for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

RUBIN FAMILY INVESTMENTS PARTNERSHIP,
HAROLD RUBIN LIVING TRUST U/A DATED
AUGUST 24, 1990, HAROLD R. RUBIN,
ELAINE RUBIN LIVING TRUST U/A DATED,
AUGUST 24, 1990, ELAINE S. RUBIN, STUART
A. RUBIN, BENJAMIN H. RUBIN, CAROL J.
RUBIN, LISA P. RUBIN, LINDA S. BENENSON,
DONA L. RODICH, PAUL A. BENENSON, and

Adv. Pro. No. 10-04521 (SMB)

MICHAEL E. RODICH,

Defendants.

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL
OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel, Baker & Hostetler LLP, and Rubin Family Investments Partnership, Harold Rubin Living Trust U/A Dated August 24, 1990, Harold R. Rubin, Elaine Rubin Living Trust U/A Dated, August 24, 1990, Elaine S. Rubin, Stuart A. Rubin, Benjamin H. Rubin, Carol J. Rubin, Lisa P. Rubin, Linda S. Benenson, Dona L. Rodich, Paul A. Benenson, and Michael E. Rodich (collectively, the “Defendants”), by and through their counsel, Frejka PLLC (collectively, the “Parties”), hereby stipulate and agree to the following:

1. On November 30, 2010, the Trustee filed the Complaint against Defendants.
2. On January 17, 2014, Defendants served an answer on the Trustee.
3. On October 13, 2016, the Parties entered into a settlement agreement pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181].
4. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to (a) a dismissal with prejudice of the Trustee’s claims against Defendants Rubin Family Investments Partnership, Harold Rubin Living Trust U/A Dated August 24, 1990, Harold R. Rubin, Elaine Rubin Living Trust U/A Dated, August 24, 1990, Elaine S. Rubin, Dona L. Rodich, and Michael E. Rodich; (b) a dismissal without prejudice of the Trustee’s claims against Defendants Stuart A. Rubin, Benjamin H. Rubin, Carol J. Rubin, Lisa P. Rubin, Linda S. Benenson, and Paul A. Benenson;

and (c) a dismissal of the above-captioned adversary proceeding without prejudice and without costs against any Party, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of an uncured default in the installment payments to seek entry of judgment pursuant to the Stipulation for Entry of Judgment, as set forth in the Settlement Agreement.

5. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

6. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated as of: October 28, 2016

BAKER & HOSTETLER LLP

FREJKA PLLC

By: /s/ Keith R. Murphy

45 Rockefeller Plaza
New York, New York 10111
Telephone: 212.589.4200
Facsimile: 212.589.4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Keith R. Murphy
Email: kmurphy@bakerlaw.com
Peter B. Shapiro
Email: pshapiro@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard,
Trustee for the Liquidation of Bernard L.
Madoff Investment Securities LLC and the
Estate of Bernard L. Madoff*

By: /s/ Elise S. Frejka

205 E. 42nd Street
New York, New York 10017
Telephone: 212.641.0800
Facsimile: 212.641.0820
Elise S. Frejka
Email: efrejka@frejka.com

*Attorneys for Defendants Rubin Family
Investments Partnership, Harold Rubin
Living Trust U/A Dated August 24, 1990,
Harold R. Rubin, Elaine Rubin Living Trust
U/A Dated, August 24, 1990, Elaine S.
Rubin, Stuart A. Rubin, Benjamin H. Rubin,
Carol J. Rubin, Lisa P. Rubin, Linda S.
Benenson, Dona L. Rodich, Paul A.
Benenson, and Michael E. Rodich*

SO ORDERED

Dated: October 28th, 2016
New York, New York

/s/ STUART M. BERNSTEIN _____
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE